

Joseph Kistler
NV State Bar No. 3458
jkistler@hutchlegal.com
Todd W. Prall
NV State Bar No. 9154
tprall@hutchlegal.com
HUTCHISON & STEFFEN, LLC
Peccole Professional Park
10080 Alta Drive, Suite 200
Las Vegas, Nevada 89145
Telephone: (702) 385-2500
Facsimile: (702) 385-2086

Dirk O. Julander
CA State Bar No. 132313
doj@jbblaw.com
JULANDER, BROWN & BOLLARD
9110 Irvine Center Drive
Irvine, California 92618
Telephone: (949) 477-2100
Facsimile: (949) 477-6355

Attorneys for Plaintiff, Atlantic-Pacific
Processing Systems, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ATLANTIC-PACIFIC PROCESSING SYSTEMS,
INC., a California corporation,

Plaintiff,

vs.

DERMAKTIVE, LLC, a Florida limited liability
company; JORDAN DUFNER, a Connecticut
resident; ADAM WELLINGTON, a Connecticut
resident; JOE HELEWA, a New York resident;
UPSURGE, LLC, a Delaware limited liability
company; UPSURGE MEDIA GROUP, LLC, a
Delaware limited liability company; WIDO, LLC,
a Delaware limited liability company; DENIS
BETSI, an Ontario, Canada resident; T1
PAYMENTS, LLC, a Nevada limited
liability company; and DONALD KASDON, a
Nevada resident,

Defendants

Case No. 2:16-CV-00739-JAD-(PAL)

Assigned to: Judge Jennifer A. Dorsey &
Magistrate Judge Peggy A. Leen

**STIPULATION AND [PROPOSED]
ORDER RE: EMERGENCY MOTION RE:
KASDON AND FAIRCHILD SUBPOENAS**

2:16-CV-00739-JAD-(PAL)

STIPULATION RE: EMERGENCY MOTION RE: KASDON/FAIRCHILD SUBPOENAS

DERMAKTIVE, LLC, a Florida limited liability company; and JORDAN DUFNER, a Connecticut resident,

Counter-Plaintiffs

vs.

ATLANTIC-PACIFIC PROCESSING SYSTEMS, INC., a California corporation,

Counter-Defendants

Non-party AMBER FAIRCHILD and DONALD KASDON (collectively the “Deponents”), on the one hand, and Plaintiff ATLANTIC-PACIFIC PROCESSING SYSTEMS, INC. (“APPS”), on the other hand, by and through their respective counsel, hereby agree to the following recitals and submit the following Stipulation and Order in resolution of the Non-Party Amber Fairchild and Donald Kasdon’s Emergency Motion to Quash Deposition Subpoenas (Dkt. No. 106) (the “Emergency Motion”).

RECITALS

WHEREAS, on May 5, 2017, counsel for APPS issued Deposition Subpoenas for the Deponents to take place on June 27, 2017 and June 28, 2017 in Las Vegas, Nevada, where the deponents resided;

WHEREAS, on June 1, 2017, counsel for the Deponents, Michael Cristalli, contacted APPS’s counsel requesting that the deposition dates be continued;

WHEREAS, on July 7, 2017, Michael Cristalli expressly agreed in open court to accept service of the Deposition Subpoenas on behalf of the Deponents (Dkt. No. 78);

WHEREAS, Mr. Cristalli requested that the depositions of the Deponents take place in October 2017 in Las Vegas to accommodate the Deponents’ anticipated move to Florida in August;

WHEREAS, APPS agreed to postpone the depositions to October on the condition that the Deponents would agree to be deposed in Nevada;

1 **WHEREAS**, pursuant to his agreement to accept service, and after the parties “met
2 and conferred” on the dates and location of the depositions, on August 17, 2017, Mr.
3 Cristalli was served with Deposition Subpoenas for the Deponents’ depositions to take
4 place in Las Vegas on October 25th (Kasdon) and 26th (Fairchild), 2017;

5 **WHEREAS**, witness fees for the depositions were tendered on September 1, 2017;

6 **WHEREAS**, on October 10, 2017, Mr. Cristalli notified counsel for APPS of a
7 family emergency necessitating the continuance of the October depositions;

8 **WHEREAS**, Mr. Cristalli agreed, on behalf of Mr. Kasdon, that all documents
9 responsive to the document requests in his Subpoena would be produced in October 2017;

10 **WHEREAS**, Mr. Cristalli agreed to reimburse the costs associated with
11 changing/cancelling airline flights related to the October depositions;

12 **WHEREAS**, when the parties could not immediately agree on the dates/locations
13 of the continued Depositions, Mr. Cristalli filed the Emergency Motion;

14 **WHEREAS**, since the filing of the Emergency Motion, the parties have reached an
15 agreement that the Deposition of Amber Fairchild will take place on January 10, 2018,
16 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite
17 300, Miami, FL 33130;

18 **WHEREAS**, since the filing of the Emergency Motion, the parties have reached an
19 agreement that the Deposition of Donald Kasdon will take place on January 9, 2018,
20 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite
21 300, Miami, FL 33130; and

22 **WHEREAS**, since the filing of the Emergency Motion, Kory Kaplan has left the
23 firm of Gentile, Cristalli, Miller, Armeni, Savarrese but continues to represent the
24 Deponents through his new law firm of Larson, Zirzow & Kaplan and is authorized to
25 accept service of the amended Deposition Subpoenas on behalf of the Deponents;

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STIPULATION

IT IS THEREFORE STIPULATED AND AGREED by and between the parties hereto as follows:

1. The undersigned counsel for the Deponents, Kory Kaplan, has authority to, and will, accept service of amended Deposition Subpoenas on behalf of the Deponents;

2. The Deposition of Amber Fairchild will take place on January 10, 2018, beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite 300, Miami, FL 33130;

3. The Deposition of Donald Kasdon will take place on January 9, 2018, beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite 300, Miami, FL 33130;

4. The witness fees previously tendered to the Deponents on September 1, 2017 will satisfy the requirements of Fed. R. Civ. P. 45(b)(1);

5. Deponent Donald Kasdon will produce all documents responsive to his Deposition Subpoena which have not already been produced within 10 days; and

6. The deponents will reimburse APPS and its counsel for the costs incurred in connection with changing/cancelling the flights for the previously-scheduled October depositions in the amount of \$203.02.

IT IS SO STIPULATED.

DATED this 8th day of November, 2017

JULANDER, BROWN & BOLLARD

By


DIRK O. JULANDER

Pro Hac Vice

9110 Irvine Center Drive

Irvine, California 92618

Tel. (949) 477-2100

*Attorneys for Plaintiff and Cross-Defendant
Atlantic-Pacific Processing Systems, Inc*

1 DATED this 8th day of November, 2017

2 LARSON, ZIRZOW & KAPLAN

3
4 By 

5 KORY KAPLAN

6 850 E. Bonneville Ave.

7 Las Vegas, NV 89101

8 Tel. (702) 382-1170

9 *Attorneys for Defendants T1 Payments, LLC and*
10 *Donald Kasdon and Non-Party Amber Fairchild*

11 **ORDER**

12 Based on the foregoing Stipulation and good cause appearing, it is hereby
13 ORDERED as follows:

14 1. Kory Kaplan shall accept service of amended Deposition Subpoenas on
15 behalf of Deponents Donald Kasdon and Amber Fairchild;

16 2. The Deposition of Amber Fairchild shall take place on January 10, 2018,
17 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite
18 300, Miami, FL 33130;

19 3. The Deposition of Donald Kasdon shall take place on January 9, 2018,
20 beginning at 9:00 a.m., at First Choice Reporting – Miami, 44 West Flagler Street, Suite
21 300, Miami, FL 33130;

22 4. The witness fees previously tendered to the Deponents on September 1, 2017
23 shall satisfy the requirements of Fed. R. Civ. P. 45(b)(1);

24 5. Deponent Donald Kasdon shall immediately produce all documents
25 responsive to his Deposition Subpoena which have not been previously produced by him
26 within 10 days; and


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6. The Deponents shall reimburse APPS and its counsel for the costs incurred in connection with changing/cancelling the flights for the previously-scheduled October depositions in the amount of \$203.02, payable within 10 days to the Julander, Brown & Bollard Client Trust Account.

IT IS SO ORDERED.

IT IS FURTHER ORDERED that the Emergency Motion to Quash Subpoenas (ECF No. 106) is **DENIED as moot** and the hearing on that motion, currently set for November 16, 2017 is **VACATED**.


Peggy A. Leen
United States Magistrate Judge

Dated: November 14, 2017

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2017, a true and correct copy
of **STIPULATION AND [PROPOSED] ORDER RE: EMERGENCY MOTION RE:
KASDON AND FAIRCHILD SUBPOENAS** was served via the United States District Court
CM/ECF system on all parties or persons requiring notice.

By Stephanie Hernandez
Stephanie Hernandez, an Employee of
JULANDER, BROWN & BOLLARD,